

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ NOV 03 2010 ★

RACHEL COLON ON BEHALF OF HER INFANT  
DAUGHTER, R.C.,

BROOKLYN OFFICE

Plaintiff, **COMPLAINT AND  
JURY DEMAND**

-against-

THE CITY OF NEW YORK, POLICE OFFICER SLADE,  
POLICE OFFICER MCLAUGHLIN, SHIELD NO.29224, ECF CASE

**CV 10 -**

*NSI*  
**5085**

Defendants.

**TRAGER, J.**

**DOHAK, M.J.**

**PRELIMINARY STATEMENT**

1. This is a civil rights action in which plaintiff seeks relief for the violation of their rights secured by 42 USC §1983 and the Fourth and Fourteenth Amendments to the United States Constitution, and the laws and Constitution of the State of New York.

2. The claims arise from a June 4, 2009 incident in which Officers of the New York City Police Department ("NYPD"), acting under color of state law, intentionally and willfully subjected plaintiffs to, among other things, false arrest, excessive force, and malicious prosecution.

3. Plaintiff seeks monetary damages (special, compensatory, and punitive) against defendants, as well as an award of costs and attorneys' fees, and such other and further relief as the Court deems just and proper.

**JURISDICTION**

4. This action is brought pursuant to 28 U.S.C. §1331, 42 U.S.C. §1983, and the Fourth and Fourteenth Amendments to the United States Constitution.

5. Venue is laid within the United States District Court for the Eastern District of New York

in that Defendant City of New York is located within, and the events occurred within, the boundaries of the Southern District of New York.

### **PARTIES**

6. Plaintiff is a citizen of the United States and at all times here relevant resided in, Kings County, New York. She was 12 years old at the time of the incident.

7. The City of New York is a municipal corporation organized under the laws of the State of New York.

8. All individual defendants ("the officers") are employees of the NYPD, and are sued in their official and individual capacities.

9. At all times here mentioned defendants were acting under color of state law, to wit, under color of the statutes, ordinances, regulations, policies, customs and usages of the City and State of New York.

### **FACTUAL ALLEGATIONS**

10. June 4, 2009, at approximately 11:30 a.m., plaintiff, who was 12 years old, was with her mother, Rachel Colon entering the Broadway Junction train station on the "J" line, in Brooklyn, NY.

11. They had each swiped their metrocards and proceeded through the turnstile when they were approached by police officers one of whom had a dog with him. As plaintiff backed away from the dog, the officers maced her, causing injury to her eyes. Plaintiff was also unlawfully detained by the officers.

12. All officers involved in her assault formed an agreement to assault her, and failed to intervene in an obvious violation of her constitutional rights, causing injury

13. During all of the events above described, defendants acted maliciously and with intent to injure plaintiff.

**DAMAGES**

14. As a direct and proximate result of the acts of defendants, plaintiffs suffered the following injuries and damages:

- a. Violation of their rights pursuant to the Fourth and Fourteenth Amendments to the United States Constitution to be free from an unreasonable search and seizure;
- b. Violation of their right to Due Process of Law under the Fourteenth Amendment to the United States Constitution;
- c. Emotional trauma and suffering, including fear, embarrassment, humiliation, emotional distress, frustration, extreme inconvenience, anxiety;
- d. Loss of liberty;
- e. Physical pain and suffering;

**FIRST CAUSE OF ACTION**  
(42 U.S.C. § 1983)

15. The above paragraphs are here incorporated by reference.

16. Defendants acted under color of law and conspired to deprive plaintiffs of their civil, constitutional and statutory rights to be free from unreasonable search and seizure and to due process of law pursuant to the Fourth and Fourteenth Amendments to the United States Constitution, and are liable to plaintiff under 42 U.S.C. §1983.

17. Defendants falsely arrested and used excessive force against plaintiff, and failed to intervene in each other's obviously illegal actions.

18. Plaintiff has been damaged as a result of defendants' wrongful acts.

WHEREFORE, plaintiff demands judgment against the defendants, jointly and severally, as follows:

- A. In favor of plaintiff in an amount to be determined by a jury for each of plaintiff's causes of action;
- B. Awarding plaintiff punitive damages in an amount to be determined by a jury;
- C. Awarding plaintiff reasonable attorneys' fees, costs and disbursements of this action; and
- D. Granting such other and further relief as this Court deems just and proper.

**JURY DEMAND**

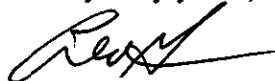
Plaintiffs demand a trial by jury.

DATED: Brooklyn, New York  
November 1, 2010  
TO: New York City  
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Very truly yours,



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